

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RHONDA W. f/k/a RHONDA N.,

Plaintiff,

-v-

5:24-CV-169

LELAND DUDEK¹,
Acting Commissioner of Social Security,

Defendant.

APPEARANCES:

OF COUNSEL:

RHONDA WYCHE
formerly known as
RHONDA NIBBS
Plaintiff, *pro se*
312 Toas Ave
Mattydale, NY 13211

SOCIAL SECURITY
ADMINISTRATION
Attorneys for Defendant
6401 Security Boulevard
Baltimore, MD 21235

SHANNON FISHEL, ESQ.

DAVID N. HURD
United States District Judge

¹ Plaintiff did not specify who was Commissioner of Social Security in their complaint, but it was Martin O'Malley. However, Leland Dudek ("Dudek") has since become the Acting Commissioner of Social Security. Accordingly, Colvin has been inserted as the proper defendant in this action. *See* FED. R. CIV. P. 25(d).

ORDER ON REPORT & RECOMMENDATION

On February 5, 2024, plaintiff Rhonda N., formerly known as Rhonda Nibbs, (“plaintiff”) filed this 42 U.S.C. § 405(g) action seeking judicial review of a final decision by the Commissioner of Social Security (the “Commissioner” or “Defendant”) denying her application for disability benefits.² Dkt. No. 1. A briefing schedule was set. Dkt. Nos. 17, 18. Plaintiff failed to file a brief by the deadline. Dkt. No. 20. Plaintiff received an extension of time to file her brief in light of her *pro se* status, but again failed to file a brief. Dkt. Nos. 20, 21. Defendant was then ordered to file a brief within 45 days, which they timely filed. Dkt. Nos. 21, 24. This memorandum is treated as a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure (“Rule”) 12(c) in accordance with General Order 18. Dkt. No. 24.

On February 5, 2025, U.S. Magistrate Judge Miroslav Lovric advised by Report & Recommendation (“R&R”) that plaintiff’s motion be denied, that defendant’s motion be granted, and that the Commissioner’s decision be affirmed. Dkt. No. 27. Neither party has lodged timely objections to the R&R.

² Along with his complaint, plaintiff also moved to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 3. On February 7, 2024, U.S. Magistrate Judge Miroslav Lovric denied plaintiff’s IFP Application without prejudice. Dkt. No. 8. On February 26, 2024, plaintiff refiled their IFP Application, Dkt. No. 15, which was then granted by Judge Lovric the same day.

Upon review for clear error, Judge Lovric's R&R will be adopted in all respects. *See* FED. R. CIV. P. 72(b). In the R&R, Judge Lovric reasoned that the Administrative Law Judge ("ALJ") properly applied the five-step sequential evaluation process promulgated by the Commissioner for adjudicating disability claims to plaintiff's claim. Dkt. No. 27. Judge Lovric further reasoned that the ALJ had properly developed and considered the record in making its determination. *Id.*

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 27) is ACCEPTED;

2. Defendant's motion for judgment on the pleadings (Dkt. No. 24) is

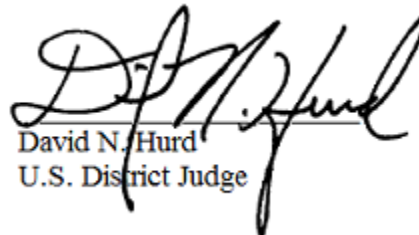
GRANTED;

3. Plaintiff's complaint (Dkt. No. 1) is DISMISSED; and

4. The final decision of the Commissioner is AFFIRMED.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.



David N. Hurd
U.S. District Judge

Dated: February 26, 2025
Utica, New York.